

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

BIG RIVERS ELECTRIC CORPORATION'S)	
PROPOSED MECHANISM TO CREDIT TO)	
CUSTOMERS AMOUNTS RECOVERED IN)	CASE NO. 94-453
JUDICIAL PROCEEDINGS INVOLVING FUEL)	
PROCUREMENT CONTRACTS)	

O R D E R

Kentucky Industrial Utility Customers, Inc. ("KIUC") has moved for an Order compelling Big Rivers Electric Corporation ("Big Rivers") to answer certain data requests. Big Rivers has responded to the motion. Having considered the motion and response thereto, the Commission grants the motion in part and denies it in part.

KIUC requests all correspondence between Big Rivers and the Rural Utilities Service ("RUS") on Shirley Pritchett's agreement to pay restitution to Big Rivers as part of a sentencing agreement¹ and Big Rivers' settlement agreement with Eddie R. Brown.² It argues that such correspondence is relevant in light of Big Rivers' continued assertion that the establishment of any recovery mechanism may constitute a default under its Debt Restructuring Agreement with RUS.

Big Rivers has previously advised the Commission that any "damages or awards mechanism outside of the fuel adjustment clause mechanism may conflict with Big Rivers' obligations under its Debt

¹ KIUC Data Request, Item 2C.

² KIUC Data Request, Item 3D(1).

Restructuring Agreement"³ It has repeatedly reminded the Commission of RUS's warnings on this issue. As the requested information may reveal the positions of RUS and Big Rivers at the time the Pritchett Sentencing Agreement and the Brown Settlement Agreement were entered and when restitution payments were begun, it is relevant and should be produced.

KIUC also requests that Big Rivers provide the Proof of Claim or Statement of Loss which the utility submitted to its fiduciary insurance company for the alleged wrongful acts of William H. Thorpe,⁴ all correspondence with the United States Attorney for the Western District of Kentucky regarding the Pritchett Sentencing Agreement,⁵ certain information regarding Eddie Brown and his dealings with Big Rivers,⁶ documents related to the financing of Contract No. 527,⁷ all representation letters from Big Rivers' officials and legal counsel to Big Rivers independent auditors,⁸ and all documents identified in Big Rivers' Motion for Protective Order in Big Rivers Electric Corporation v. William H. Thorpe.⁹

³ Big Rivers' Response to the Commission's Order of May 11, 1995, at 4.

⁴ KIUC Data Request, Item 1D.

⁵ KIUC Data Request, Item 2B.

⁶ KIUC Data Request, Items 3C, 3D(ii), 3E and 3F.

⁷ KIUC Data Request, Item 7.

⁸ KIUC Data Request, Item 8.

⁹ Civil Action No. 93-0110-0(CS) (W.D. Ky.). KIUC Data Request, Item 10.

The Commission fails to see the relevance of any of this material. The scope of this proceeding is limited to the establishment of a rate mechanism to credit to ratepayers amounts related to Big Rivers' fuel procurement activities which are recovered through judicial and administrative proceedings. KIUC has failed to show that these materials are even remotely related to that issue. In the absence of such showing, the Commission finds that the requested materials are not proper objects of discovery.

IT IS THEREFORE ORDERED that:

1. KIUC's Motion to Compel is granted in part and denied in part.

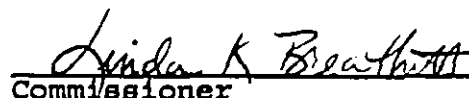
2. Big Rivers shall provide within 20 days of this Order all correspondence with the RUS on its receipt of restitution ordered by the United States District Court for Western District of Kentucky in the criminal prosecution of Shirley Pritchett and on its receipt of monies from Eddie R. Brown or entities owned by Eddie R. Brown.

Done at Frankfort, Kentucky, this 6th day of October, 1995.

PUBLIC SERVICE COMMISSION


Chairman


Vice Chairman


Commissioner

ATTEST:


Executive Director